

**United States Environmental Protection Agency
Region IX
POLLUTION REPORT**

Date: Tuesday, January 15, 2008
From: Craig Benson, On-Scene Coordinator

To:	Barbara Lee, USEPA Ivania Brown, USEPA Andrew Helmlinger, USEPA Steven John, USEPA Nick Vent, San Diego DEH Chris Reiner, USEPA Steve Calanog, EPA Kristie Orosco, Rincon Tribe Cameron McDonald, USEPA	Celeste Temple, USEPA George Baker, DTSC Peggy DeLaTorre, USEPA Daniel Meer, US EPA R9 Edward Slater, SDHMD Dave Rasmussen, DTSC Mike Schwennesen, START Hillary Hecht, USEPA
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Subject: Initiation of Action
Mushroom Express
33777 Valley Center Rd., Valley Center, CA

POLREP No.:	1	Site #:	
Reporting Period:	1/9/08 - 1/14/08	D.O. #:	
Start Date:	1/11/2008	Response Authority:	CERCLA
Mob Date:	1/11/2008	Response Type:	Time-Critical
Completion Date:		NPL Status:	Non NPL
CERCLIS ID #:		Incident Category:	Removal Assessment
RCRIS ID #:		Contract #	

Site Description

The Mushroom Express facility is a five acre parcel of privately held fee land that is located within the exterior boundaries of the federal Rincon Indian Reservation in San Diego County, California. The non tribal facility has functioned as a mixed use commercial site for a number of years. Mushroom Express operated as a produce transportation and mushroom growing business. The parcel contained two 17,500 concrete block buildings for mushroom growing operations and one of the structures also contained several apartments. In addition, the owner leased open space to several tenants for truck/trailer storage, equipment storage and a separate towing/impound business.

The buildings and associated out-structures and many of the trucks, trailers and cars on the parcel were completely devastated by the 2007 So. California wildfire event. EPA OSC's were informed of the site by Tribal authorities during EPA's participation in FEMA technical assistance assignments in the post-fire recovery efforts. On 11/9/07 OSC Dunkelman and START conducted a brief inspection of the property and identified several potential hazardous substance sources including small volumes of drums, tanks and cylinders. On 11/14/07, OSC Dunkelman spoke with owner Marvin Donius who indicated that he was planning to remove any hazardous materials from the facility beginning as soon as the next day. As a commercial property, it was understood that the facility was ineligible under FEMA policy for the County-wide residential household

hazardous waste recovery effort and subsequent burn debris cleanup programs. Voluntary property owner cleanup with Tribal oversight was a preferred solution.

On 12/5/07, OSC Dunkelman followed up with Mr. Donius at the request of Rincon Environmental Coordinator Kristie Orosco. Mr. Donius informed OSC Dunkelman that he had arranged a cleanup with San Diego County. The specifics of the arrangement were not communicated. In an e-mail correspondence to EPA on 12/21/07, Ms. Orosco stated that there was no indication that site remediation was taking place and requested that EPA work with the Tribal Council to put pressure on the landowner. The e-mail also referenced a previous 2007 EPA RCRA inspection of the property.

^{owner}
In January 2008, OSC Benson arranged a site visit with Mr. Donius and a meeting with the Rincon tribe to assess any environmental threats and get clarity on regulatory jurisdictional issues.

Current Activities

01/07/08:

OSC Benson obtained a copy of the EPA RCRA Notice of Violation (NOV) resulting from a 5/18/07 hazardous waste compliance inspection at Mushroom Express. According to the inspector, the NOV was never delivered as EPA did not receive confirmation of an agreement on the NOV from the Tribe. The NOV required the removal of 19 55-gallon drums from the southeast section of the property and excavation/confirmation of removal of an unspecified amount of potentially waste oil contaminated soil.

01/09/08:

OSC Benson contacted San Diego County Environmental Health Supervisor, Nick Vent for assistance in researching the County's knowledge/involvement with Mushroom Express. According to the County Department of Public Land Use, Mr. Donius did sign up for the County's debris removal program but was halted due to the location of the parcel inside the Reservation. A County permit (unspecified) for the "Rincon Mushroom Farm" (129474) was inactivated in 1991. No other information was in the County database. Mr. Vent reported that according to County records, the facility is on Tribal land.

OSC Benson contacted Mr. Donius and arranged a site visit for 1/11/08.

01/11/08

0800 hours: Meeting at the Rincon Tribal Administration Building. Attendees included OSC Benson, START, Ms. Orosco, Dick Watenpaugh, Director of Tribal Administration and Alan Sweeney, Tribal Development and Legal Affairs Director.

The Mushroom express parcel was confirmed to be privately owned fee land owned by a non-tribal member (not in trust). In such cases, the Tribe must rely on federal laws and programs due to an inability to enforce against non-tribal members. Historical documents indicating a relinquishment of regulatory jurisdiction from the County to the Tribe are said to exist and OSC Benson has requested copies.

Messrs. Watenpaugh and Sweeney said that the Reservation has not perfected codes, ordinances or an infrastructure to enforce against the types of issues presented by Mushroom Express and they don't know how or have the mechanism to do it. Relevant issues may be basic fire codes, land use, building permits, condemnation, nuisance abatement, etc.

At 0900 hours, the group met with Mr. Donius on-site. OSC Benson requested and received a

signed access agreement from Mr. Donius. The group walked the property with Mr. Donius explaining the locations of past operations and delineating tenant areas with past/current operations. The towing company, a pallet company and RV/trailer storage operations had resumed post-fire. Trailers, sheds and the footprint areas of the former concrete block structures were evaluated for the presence of any potential hazardous substances. The potential sources noted by EPA/START on 11/9/07 (cylinders associated with forklifts, tanks, etc.) were found to be empty or destroyed by the fire. Four 55-gallon drums with content were sampled and field screened by START. Two drums contained water and two drums located in the drum storage pad contained only residual oil/water. The drum pad was associated with truck maintenance and was the location where waste oil was stored prior to transportation off-site.

No visible sources of asbestos were evident and there are no USTs on-site. Other than waste oils associated with truck maintenance, the past and present use of the property does not suggest the possibility of significant post-fire hazardous substance contamination. Numerous burned out cars and trailers still exist on the property and there is a large volume of scrap metal and concrete rubble associated with the former buildings. According to Mr. Donius, the owners of some of the cars and trailers are still in settlement negotiations with their respective insurance carriers. Most of the produce trucks and trailers owned by Mushroom Express were untouched by the fire or sustained only minor damage. Mr. Donius plans to re-locate these assets to his facility in Watsonville, California.

A groundwater well is located at the rear of the property and a sump was located within the footprint of the one of the former structures. One or two septic tanks/leach fields are also present. Partially collapsed concrete walls associated with both former buildings poses a significant physical hazard. Property access is not completely restricted and there is evidence of copper and aluminum theft by vandals.

Mr. Donius informed OSC Benson that he does have the financial resources to address property cleanup and that he is ready to begin once he "gets the issues with the Tribe sorted out". His conceptual plan is to begin work by collapsing all standing walls, pull out all scrap metal for recycling using his own labor and trucks and contract out a firm to crush and remove all concrete rubble. He is not going to resume operations at this location and intends to sell the property. A sale to the Tribe reportedly fell through and he is currently in preliminary negotiations with a buyer interested in developing the property.

At 1200 hours, OSC Benson held a post site inspection brief with Ms. Orosco. She understood that the site did not trigger jurisdiction under EPA's removal program. She did request and OSC Benson agreed to assist the Tribe with a minor sampling event to evaluate soils in the proximity of the former drum storage pad where waste oils may have been spilled (RCRA NOV).

The overarching issue appears to be confusion over who has appropriate regulatory jurisdiction on this land. The site appears to be unregulated from the standpoint of basic fire codes, land use (including former apartments), building codes and other matters associated with municipal government. The issue is also relevant to oversight of property remediation and re-development.

Ms. Orosco agreed to send OSC Benson information from the Tribal file relating to a possible relinquishment of regulatory jurisdiction from the County to the Tribe and a recent Tribal letter to Mr. Donius requesting a cleanup workplan. Groundwater, surface water and well information will also be shared in the near future to help support a plan for the agreed upon sampling effort.

In an effort to get further information on the status of the Mushroom Express parcel, OSC Benson contacted BIA Southern California Environmental Protection Specialist Gil Stuart. Mr. Stuart stated that Mushroom Express is on fee land which means it has the same status as any land off the Reservation. It is not trust/Reservation land and is fully subject to State and County regulations and jurisdiction. Mr. Stuart also stated that BIA does not have jurisdiction over fee land. Mr. Stuart said that it is not unheard of for Counties to be unaware of this, particularly for fee land parcels that are within the boundaries of a reservation.

OSC Benson requested a copy of the Land Title Status Map for Rincon from the BIA Realty Department.

The information gathered to date has been communicated with Nick Vent and will be forwarded to County officials for consideration.

Planned Removal Actions

As requested documents are received, they will be forwarded to involved parties in an attempt to solve the jurisdiction issue.

Next Steps

A brief joint EPA/Rincon soil sampling event is pending information exchange.

Key Issues

Mr. Donius has requested split samples for any future sampling event.

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
Intramural Costs				
Total Site Costs	\$0.00	\$0.00	\$0.00	0.00%

* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

**United States Environmental Protection Agency
Region IX
POLLUTION REPORT**

Date: Thursday, March 20, 2008
From: Craig Benson, On-Scene Coordinator

To:	Barbara Lee, USEPA Ivania Brown, USEPA Andrew Helmlinger, USEPA Steven John, USEPA Nick Vent, San Diego DEH Chris Reiner, USEPA Steve Calanog, EPA Kristie Orosco, Rincon Tribe Cameron McDonald, USEPA	Celeste Temple, USEPA George Baker, DTSC Peggy DeLaTorre, USEPA Daniel Meer, US EPA R9 Edward Slater, SDHMD Dave Rasmussen, DTSC Mike Schwennesen, START Hillary Hecht, USEPA
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Subject: Continuation of Action
Mushroom Express
33777 Valley Center Rd., Valley Center, CA

POLREP No.:	2	Site #:	
Reporting Period:	1/15/08 – 3/20/08	D.O. #:	
Start Date:	1/11/2008	Response Authority:	CERCLA
Mob Date:	1/11/2008	Response Type:	Time-Critical
Completion Date:		NPL Status:	Non NPL
CERCLIS ID #:		Incident Category:	Removal Assessment
RCRIS ID #:		Contract #	

Site Description

See POLREP 1 in the documents link at www.epaossc.org/mushroomexpress

The Mushroom Express facility is a five acre parcel of privately held fee land that is located within the exterior boundaries of the federal Rincon Indian Reservation in San Diego County, California. The non tribal facility has functioned as a mixed use commercial site for a number of years. Mushroom Express operated as a produce transportation and mushroom growing business. The parcel contained two 17,500 concrete block buildings for mushroom growing operations and one of the structures also contained several apartments. In addition, the owner leased open space to several tenants for truck/trailer storage, equipment storage and a separate towing/impound business.

The buildings and associated out-structures, several AST's, a waste oil storage area, a drinking water well, and many of the trucks, trailers and cars on the parcel were completely devastated by the 2007 So. California wildfire event. EPA OSC's were first informed of the site by Tribal authorities during EPA's participation in FEMA technical assistance assignments in the post-fire recovery efforts. As a commercial property, the facility was ineligible under FEMA policy for the County-wide residential household hazardous waste recovery effort and subsequent burn debris cleanup programs. Voluntary property owner cleanup with Tribal oversight was a preferred

solution.

EPA is supporting the Rincon Environmental Department with an environmental evaluation and oversight of property owner characterization and remediation efforts.

Current Activities

POLREP No. 1 documents site activities from 01/07/08 – 01/14/08

02/06/08

OSC Benson spoke to Indian Health Service (IHS), District Environmental Health Specialist David Robbins regarding a site evaluation he performed on 1/16/08 at the request of the Rincon Tribe. Mr. Robbins stressed that IHS provided this service as a consultant only, not following any particular protocol. In his assessment report, dated 1/18/08, Mr. Robbins states that a variety of problems have been identified on many occasions, but environmental laws have not been enforced at the site for nearly thirty years. Mr. Robbins provided specific recommendations to evaluate the on-site drinking water well and other potential on-site conduits of contamination into the unconfined aquifer beneath the site.

The IHS report also referenced an Underground Injection Control Well/Ground Water Vulnerability Inspection Report which was conducted by EPA in 2005 in response to a tribal request.

02/12/08

In response to previous inquiries to San Diego County regarding County regulatory jurisdiction over the site, OSC Benson received a clarifying email from Timothy Kirkland, the Code Enforcement Coordinator for the County Dept. of Planning and Land Use. The email stated:

“The County of San Diego does not have jurisdiction on APN 133-180-02-00 (the Mushroom Farm). Jurisdictional matters for structural and life safety fire issues and zoning matters rests with the Rincon Reservation. The property in question does have fee title, but based on past research and after consultation with County Counsel, the property is still part of the Rincon Reservation. Enforcement is a tribal issue because this responsibility was retained by the tribal government.

Further the County Zoning Ordinance Section 1006 states “The County Zoning Ordinance shall not apply to Indian Reservation lands within the County of San Diego. Such lands are defined as those parcels which are identified as Indian Reservation lands by an Act of the United States Congress.

Based on this section, and the references above, the County does not have land use jurisdiction over the subject parcel of land”.

02/15/08

OSC Benson received a letter dated 2/15/08 from the Law Offices of George McGill (representing the Rincon Mushroom Corporation). In the letter, Mr. McGill explains that he employed Mr. Langerman of Advanced Chemical Safety, Inc. (ACS) to investigate the site with regard to any potential groundwater contamination or other potential environmental problems. This was a reaction to Tribal Council concerns that had been expressed to Rincon Mushroom Corporation earlier in the month. Mr. McGill emphasized that Rincon Mushroom Corporation is not the owner of the site, having sold the property to Marvin Donius in 1999 and that the only interest Rincon Corporation has in the property is a holder of a security interest (beneficiary under a first deed of trust). In the letter, Mr. McGill also states an intention to cooperate with EPA and an authorization to directly communicate with Mr. Langerman.

OSC Benson and Mr. Langerman spoke on the telephone and tentatively arranged a 2/28/08 site visit. Mr. Langerman agreed to deliver a draft workplan in advance of the site visit.

02/21/08

Receipt of ACS "Draft Debris Removal Workplan" for the Mushroom Express property.

02/28/08

1030 hours: Site walk and meeting. Attendees included OSC Benson, START, Rincon EPA Coordinator Eric Mendoza, Marvin Donius and Neil Langerman. Since the 1/11/08 EPA site visit the following activities have occurred on the site:

- Mr. Donius has moved some scrap metal off-site,
- San Diego Gas and Electric removed the properties slab mounted transformer,
- Some previously partially collapsed walls associated with the two former structures have completely collapsed, and
- An insurance company removed one truck trailer from the property. Mr. Donius reports that no other vehicles will be removed by insurance or any other organization.

During the site walk, particular emphasis was placed on identifying environmental sample collection points including the drinking water well, surface and shallow subsurface soil sampling locations associated with ASTs and waste oil storage areas and other identified underground injection points identified by EPA in 2005. Mr. Langerman understood the need to submit a sampling and analysis plan which clearly defines the data quality/data use objectives and sampling and analytical methodologies. This plan would be treated as a companion, or annex, to the more general nature of the burn ash/debris removal tasks specified in the Draft Debris Removal Workplan.

Other priority tasks to be conducted concurrent with or in advance of burn ash/debris removal activities were identified, including providing for more site security, management of physical hazards, including falling walls, and segregation/removal of a small quantity of identified hazardous materials.

Mr. Langerman informed OSC Benson that due to conflict-of-interest concerns, a specific business relationship between Mr. Donius and ACS would be necessary to proceed. This task, together with completion a draft sampling and analysis plan was requested by 3/17/08.

03/10/08

In e-mail correspondence, Mr. Langerman informed OSC Benson that a business agreement was submitted to Mr. Donius on 2/29/08, but Mr. Donius has not concluded a business arrangement with ACS. No work has been done on the plans and no cleanup work has been authorized.

03/12/08

OSC Benson contacted Mr. Donius who indicated that he was unhappy with the cost proposal submitted by ACS and had elected to retain Marc Boogay, Consulting Engineer to prepare the sampling and analysis plan. The previous August (pre-wildfire), Mr. Boogay was hired by Mr. Donius to complete an ASTM Phase I Environmental Site Assessment Report for the property.

OSC Benson and START have communicated the plan requirements to Mr. Boogay and an acceptable draft is expected by the end of March.

03/20/08

Receipt ASTM Phase I Environmental Site Assessment Report for Mushroom Express prepared by Marc Boogay Consulting Engineer, 8/16/07. The report states that "no recognized environmental conditions were observed onsite, except for those represented by fuel tanks and quantities of waste oil. One AST was in use at the site, mainly for truck fueling purposes. The other two tanks were not in use at the time of inspection; however, one of these was reported to have been a previous onsite UST, the other an AST diesel tank. No evidence of significant release or other adverse site usage was identified in the site inspection, other than minor staining near the fuel dispenser. The subject site vicinity appeared to have been characterized by reservation land, residential/farmland, and previously as vacant land".

The history and regulatory agency records reviews conducted as part of the Phase I Report highlight the incomplete and/or absent nature of zoning/land use restrictions, permitting authorities and general state and municipal regulatory oversight.

Planned Removal Actions

EPA maintains an interest in coordinating oversight of a voluntary cleanup of this site with the Rincon Tribal authorities. The property owner and Rincon Mushroom Corporation have individually expressed their desire to cooperate with EPA and address all site concerns. Failure to complete burn ash/debris removal and conduct an environmental assessment of identified areas of concern may result in an EPA removal program action.

Next Steps

- Awaiting receipt of a draft sampling and analysis plan for EPA approval.
- Oversight of sampling and analysis plan implementation.
- Assistance to Tribe with oversight of burn ash/debris removal effort.

Key Issues

The overarching issue appears to be a lack of appropriate regulatory jurisdiction on this land. The site appears to be unregulated from the standpoint of basic fire codes, land use, building codes and other matters associated with municipal government. The issue is also relevant to oversight of property remediation and re-development.

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
Intramural Costs				
Total Site Costs	\$0.00	\$0.00	\$0.00	0.00%

* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

www.epaosc.org/mushroomexpress

**United States Environmental Protection Agency
Region IX
POLLUTION REPORT**

Date: Monday, May 19, 2008

From: Craig Benson, On-Scene Coordinator

To:	Barbara Lee, USEPA	Celeste Temple, USEPA
	Ivania Brown, USEPA	George Baker, DTSC
	Andrew Helmlinger, USEPA	Peggy DeLaTorre, USEPA
	Steven John, USEPA	Daniel Meer, US EPA R9
	Nick Vent, San Diego DEH	Edward Slater, SDHMD
	Chris Reiner, USEPA	Dave Rasmussen, DTSC
	Steve Calanog, EPA	Mike Schwennesen, START
	Kristie Orosco, Rincon Tribe	Hillary Hecht, USEPA
	Cameron McDonald, USEPA	

Subject: Continuation of Action
Mushroom Express
33777 Valley Center Rd., Valley Center, CA

POLREP No.:	3	Site #:	
Reporting Period:	3/21/08 – 5/16/08	D.O. #:	
Start Date:	1/11/2008	Response Authority:	CERCLA
Mob Date:	1/11/2008	Response Type:	Time-Critical
Completion Date:		NPL Status:	Non NPL
CERCLIS ID #:		Incident Category:	Removal Assessment
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Site Description

See POLREP 1 in the documents link at www.epaosc.org/mushroomexpress

The Mushroom Express facility is a five acre parcel of privately held fee land that is located within the exterior boundaries of the federal Rincon Indian Reservation in San Diego County, California. The non tribal facility has functioned as a mixed use commercial site for a number of years. Mushroom Express operated as a produce transportation and mushroom growing business. The parcel contained two 17,500 concrete block buildings for mushroom growing operations and one of the structures also contained several apartments. In addition, the owner leased open space to several tenants for truck/trailer storage, equipment storage and a separate towing/impound business.

The buildings and associated out-structures, several AST's, a waste oil storage area, a drinking water well, and many of the trucks, trailers and cars on the parcel were completely devastated by the 2007 So. California wildfire event. EPA OSC's were first informed of the site by Tribal authorities during EPA's participation in FEMA technical assistance assignments in the post-fire recovery efforts. As a commercial property, the facility was ineligible under FEMA policy for the County-wide residential household hazardous waste recovery effort and subsequent burn debris cleanup programs. Voluntary property owner cleanup with Tribal oversight was a preferred

solution.

EPA is supporting the Rincon Environmental Department with an environmental evaluation and oversight of property owner characterization and remediation efforts.

Current Activities

POLREP No. 1 documents site activities from 01/07/08 – 01/14/08

POLREP No. 2 documents site activities from 01/15/08 – 3/20/08

03/25/08 – 5/12/08

Who Throughout this period, Marc Boogay, Consulting Engineer (working for the property owner Marvin Donius) submitted three draft versions and a final version of a Sampling and Analysis Plan (SAP) to OSC Benson. Each draft was reviewed and commented on with a final version submitted on 5/12/08. Comments generally related to environmental sampling collection points (as discussed in the 2/28/08 site walk with Mr. Donius) and sampling/analytical methodologies. OSC Benson approved the final version and Mr. Boogay has scheduled field implementation for 5/29/08 – 5/31/08.

When Why As stated in the SAP, the objective is to guide progress toward environmental site assessment. It includes a description of the sampling and analysis strategy for shallow soil beneath areas of (suspected) released petroleum hydrocarbons, sampling and analysis of burn ash, assessment of water quality from an on-site production well, and assessment of the location and extent of on-site wastewater systems, i.e., septic tank(s) and percolation field(s).

5/14/08

OSC Benson contacted property owner Donius for an update on site activities. Since the previous EPA site walk on 2/28/08:

- A total of 35 loads of scrap metal have been taken to Ecology Scrap and Steel in Oceanside, CA. Approximately 5 loads remain for removal.
- All concrete block walls have been knocked down. The blocks are in a pile.
- 4 drums with residual oil have been pumped by Ashbury Environmental (4/14/08). Mr. Donius is submitting the associated Manifest. Empty drums and cylinders are staged in a holding area.
- The drinking water well has been repaired and is ready for sampling.

Planned Removal Actions

EPA maintains an interest in coordinating oversight of a voluntary cleanup of this site with the Rincon Tribal authorities.

Next Steps

- Oversight of sampling and analysis plan implementation (scheduled for 5/29/08 – 5/31/08).
- Data receipt, review and delivery to the Tribe.

Key Issues

The site appears to be unregulated from the standpoint of basic fire codes, land use (including former apartments), building codes and other matters associated with municipal government. The

issue is also relevant to oversight of property re-development.

In response to previous inquiries to San Diego County regarding County regulatory jurisdiction over the site, OSC Benson received a clarifying email from Timothy Kirkland, the Code Enforcement Coordinator for the County Dept. of Planning and Land Use. The email stated:

“The County of San Diego does not have jurisdiction on APN 133-180-02-00 (the Mushroom Farm). Jurisdictional matters for structural and life safety fire issues and zoning matters rests with the Rincon Reservation. The property in question does have fee title, but based on past research and after consultation with County Counsel, the property is still part of the Rincon Reservation. Enforcement is a tribal issue because this responsibility was retained by the tribal government”.

Further the County Zoning Ordinance Section 1006 states “The County Zoning Ordinance shall not apply to Indian Reservation lands within the County of San Diego. Such lands are defined as those parcels which are identified as Indian Reservation lands by an Act of the United States Congress. Based on this section, and the references above, the County does not have land use jurisdiction over the subject parcel of land”.

In an effort to get further information on the status of the Mushroom Express parcel, OSC Benson previously contacted BIA Southern California Environmental Protection Specialist Gil Stuart. Mr. Stuart stated that Mushroom Express is on fee land which means it has the same status as any land off the Reservation. It is not trust/Reservation land and is fully subject to State and County regulations and jurisdiction. Mr. Stuart also stated that BIA does not have jurisdiction over fee land. Mr. Stuart said that it is not unheard of for Counties to be unaware of this, particularly for fee land parcels that are within the boundaries of a reservation.

Tribal administrators have said that the Reservation has not perfected codes, ordinances or an infrastructure to enforce against the types of issues presented by Mushroom Express. Relevant issues may be basic fire codes, land use, building permits, condemnation, nuisance abatement, etc.

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
Intramural Costs				
Total Site Costs	\$0.00	\$0.00	\$0.00	0.00%

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**United States Environmental Protection Agency
Region IX
POLLUTION REPORT**

Date: Wednesday, July 16, 2008
From: Craig Benson, On-Scene Coordinator

To:	Barbara Lee, USEPA George Baker, DTSC Peggy DeLaTorre, USEPA Daniel Meer, US EPA R9 Edward Slater, SDHMD Dave Rasmussen, DTSC Mike Schwennesen, START Hillary Hecht, USEPA Jean Gamache, Tribal Program Office Danita Yocom, ORC	Ivania Brown, USEPA Andrew Helmlinger, USEPA Steven John, USEPA Nick Vent, San Diego DEH Chris Reiner, USEPA Steve Calanog, EPA Kristie Orosco, Rincon Tribe Cameron McDonald, USEPA Steffanie Wood, EPA CO
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Subject: Continuation of Action
Mushroom Express
33777 Valley Center Rd., Valley Center, CA

POLREP No.:	4	Site #:	
Reporting Period:	5/17/08 - 7/16/08	D.O. #:	
Start Date:	1/11/2008	Response Authority:	CERCLA
Mob Date:	1/11/2008	Response Type:	Time-Critical
Completion Date:		NPL Status:	Non NPL
CERCLIS ID #:		Incident Category:	Removal Assessment
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Site Description

See POLREP 1.

The Mushroom Express facility is a five acre parcel of privately held fee land that is located within the exterior boundaries of the federal Rincon Indian Reservation in San Diego County, California. The non tribal facility has functioned as a mixed use commercial site for a number of years. Mushroom Express operated as a produce transportation and mushroom growing business. The parcel contained two 17,500 concrete block buildings for mushroom growing operations and one of the structures also contained several apartments. In addition, the owner leased open space to several tenants for truck/trailer storage, equipment storage and a separate towing/impound business.

The buildings and associated out-structures, several AST's, a waste oil storage area, a drinking water well, and many of the trucks, trailers and cars on the parcel were completely devastated by the 2007 So. California wildfire event.

EPA is supporting the Rincon Environmental Department with an environmental evaluation and oversight of property owner characterization and remediation efforts.

Current Activities

POLREP No. 1 documents site activities from 01/07/08 – 01/14/08

POLREP No. 2 documents site activities from 01/15/08 – 3/20/08

POLREP No. 3 documents site activities from 03/21/08 – 5/16/08

06/14/08

Sampling plan implementation performed by Marc Boogay and Associates. START Project Manager Mike Schwennesen on-scene to assist with oversight and documentation. Sample collection points included were as documented in the plan and approved by EPA/Tribal EPA (2/28/08). These included soil areas of (suspected) released petroleum hydrocarbons, burn ash, and groundwater from the on-site production well. The concrete stormwater collection sump (no drainage) running east to west between the footprint of the two former structures was filled with gravel and concrete (no liquids).

07/14/08 – 07/15/08

Electronic laboratory data packages for the 06/14/08 samples were submitted to OSC Benson and, in turn, submitted to Rincon EPA staff and START Schwennesen for review. Final reporting from Marc Boogay and Associates and full data evaluation is pending.

07/15/08

On 7/15/08 START Schwennesen conducted a drive-by inspection of Mushroom Express and reported no unexpected change in site conditions since the 06/14/08 sampling effort.

OSC Benson participated in a phone conference with staff from EPA's Tribal Program Office, Office of regional Council and Emergency Response Section (ERS) Management to discuss project history, site assessment activities and projected ERS activities. The nature of future ERS involvement is pending a full review of assessment analytical data and discussion/concurrence with tribal officials.

Planned Removal Actions

EPA maintains an interest in continuing to coordinate oversight of a voluntary cleanup of this site with the Rincon Tribal authorities.

Next Steps

- Receipt of final report from Marc Boogay and Associates and EPA/tribal review of analytical data.

Key Issues

- A local contractor with experience in septic system forensics will be retained by the property owner to map out the septic tanks, "tight" lines, and percolation lines. These will be flagged in the field, and rough-surveyed so that they can be drawn onto a site plan.
- A total of 34 loads of scrap metal have been taken to Ecology Scrap and Steel in Oceanside, CA. Received 34 delivery tickets (Ecology Auto Parts for delivery to Oceanside scrap facility) spanning the period 1/10/08 – 5/13/08. Scrap involves facility metal scrap and vehicles.
- All concrete block walls have been knocked down. The blocks are in a pile. The concrete rubble is being delivered to a ranch in Valley Center where it is being used as the base for a road. About half of the rubble is gone.
- Four drums with residual oil have been pumped by Asbury Environmental (4/14/08). Manifest submitted.

- Empty drums and cylinders are staged in a holding area.

Estimated Costs *

	Budgeted	Total To Date	Remaining	% Remaining
Extramural Costs				
Intramural Costs				
Total Site Costs	\$0.00	\$0.00	\$0.00	0.00%

* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

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UNITED STATES
DEPARTMENT OF THE INTERIOR

IN REPLY REFER TO:
Executive Direction

BUREAU OF INDIAN AFFAIRS
SOUTHERN CALIFORNIA AGENCY
1451 RESEARCH PARK DRIVE, SUITE 100
RIVERSIDE, CALIFORNIA 92507-2154
PHONE (951) 278-6624
TELEFAX (951) 278-6641

JUN 27 2008

Mr. Bo Mazzetti, Vice Chairman
Rincon Band of Luiseno Indians
P.O. Box 68
Valley Canter, CA 92028

Subject: Your correspondence dated June 26, 2008, concerning the Rincon Band's jurisdiction over non Indian land located within the boundaries of the reservation.

Dear Vice-Chairman Mazzetti:

I am in receipt of your letter, dated June 16, 2008, on the above subject and have reviewed the correspondence. I have spoken with Mr. Stuart about the issue at hand and the impacts of what he has related. As you know, the Bureau of Indian Affairs (BIA) is responsible to oversee and protect Tribes, individual Indians, land that is held in trust for Tribes and Indians, as well as Trust assets and any impact thereto. Mr. Gil Stuart is a technical expert in the area of BIA environmental issues; his expertise does not extend to jurisdictional issues and offer our apology for his misstatements.

Clearly there are agreements between Tribes and local jurisdictions, city and county for zoning and other regulatory enforcement, granting Tribes the ability to regulate non Indian parcels of land in Riverside County and in San Diego County they have delegated via the correspondence you have sent us.

I hope that this clarifies the record and addresses your concern.

Sincerely,

A handwritten signature in dark ink, appearing to read "James J. Fletcher".

James J. Fletcher
Superintendent

cc: Superfund Division, United States Environmental Protection Agency, San Francisco